IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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Civil Writ Petition No. 3075 of 2005
Date of decision : 30th October, 2006

Azad Singh ...Petitioner

Versus

State of Haryana and Ors. .....Respondents

**CORAM:** HON'BLE MR. JUSTICE ASHUTOSH MOHUNTA
HON'BLE MRS. JUSTICE NIRMAL YADAV

Present: Mr. S. M. Sharma, Advocate
for the petitioner

Mr.R.S.Kundu, Addl. A.G., Haryana

Mr. Raman Gaur, Advocate
for HUDA

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**ASHUTOSH MOHUNTA, J. (Oral)**

The petitioner has prayed for quashing of notifications dated 29.11.2001 and 28.11.2002, issued under Sections 4 and 6 of the Land Acquisition Act, 1894 (herein-after referred to as 'the Act') as well as notice under Section 9 of the Act.

Learned counsel for the petitioner contends that the petitioner is owner of land measuring 4 kanals 3 marlas, comprised in Khasra No. 78/8/2/2/, Situated in village Nagal Kalan, District Sonepat, over which he has constructed his residential house much prior to the issuance of notifications and has prayed that his house is liable to be exempted from acquisition. Petitioner has also contended that proper publication of

notifications under Sections 4 and 6 of the Act, has not been done. It is further contended that the provisions of Section 5-A of the Act, have not been complied with.

Reply has been filed by the State, wherein it has been averred that the publication with regard to the issuance of notifications, issued under Sections 4 and 6 of the Act, has been done in two daily newspapers. It has further been averred that the objections filed under Section 5-A of the Act, have been decided in accordance with law and the petitioner was given the opportunity of being heard and thereafter, the same were rejected. It is further contended by the State Counsel that as the writ petition has been filed after the announcement of the award on 24.11.2004 and, hence, the same is not maintainable.

After hearing the learned counsel for the parties, we are of the considered opinion that as the substance of notification under Section 4 of the Act, was duly published in the two daily newspapers i.e. 'National Herald' ( English) dated 07.12.2001 and the 'Dainik Bhaskar'( Hindi) dated 04.12.2001 and, therefore, there is complete compliance of the provisions of Section 4 of the Act. As far as the substance of notification issued under Section 6 of the Act is concerned, the same was also published in two daily newspapers i.e. 'The Hari Bhoomi ' (Hindi) and the 'The Hindu' (English) and, therefore, there is no infirmity in the issuance of notification under Section 6 of the Act also.

The contention of the petitioner that the objections filed by him under Section 5-A of the Act, have not been decided in accordance with law, is also without any substance as perusal of the written statement shows that

the petitioner was given due hearing and the objections were rejected by the competent authority. A perusal of the file also shows that the constructed area of the petitioner, measuring 7 marlas has been released from acquisition, whereas, the rest of the land has been acquired by the State Government.

The last contention of the petitioner that as the petitioner has constructed his house and, as such, he is entitled to have his land released, also deserves to be rejected because the Department of Town and Country Planning, Haryana vide notification No. 10 DP-81/14221 dated 01.09.1981 declared the area around HSIDC, Kundli as controlled area under Section 4 (1)(b) of the Punjab Scheduled Roads and Controlled Areas Restrictions of Unregulated Development Act, 1963. The land of the petitioner falls within the aforementioned controlled area. As per the published final development plan, the land of the petitioner falls in Sector 58, Sonepat. Apart from above, even the award has also been announced on 24.11.2004, that is prior to the filing of the writ petition.

In the case of ' *Niranjan Singh and another Vs. State of Punjab and Another'*, **AIR 1986 Punjab and Haryana 202( Full Bench)**, it has been held that:-

> *"2..... Once the Collector makes his award under Section 11 of the Act and takes possession of the land, two consequences follows, i.e. (i) the acquired land absolutely vests in the government, and (ii) such vesting is free from all encumbrances. In other words, with the taking of the possession by the Government, the title of the land acquired completely passed to the State."*

The aforesaid view has been reiterated by a Division Bench of this Court in

the case of *M/s Convertaid Engineers Pvt. Ltd.,* **2003(1)RCR (Civil 427 (P&H).** Both these judgments have been followed by a Division Bench of this Court in *'Ashok Kumar and Others Versus State of Haryana and Ors.',* ***2004(2) RCR (Civil) 443.***

We are of the considered opinion that the aforesaid observations are fully applicable in the facts and circumstances of the present case.

In view of the above, we find no merit in the writ petition and the same is accordingly dismissed.

( ASHUTOSH MOHUNTA )
JUDGE

( NIRMAL YADAV)
JUDGE

October 30, 2006
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